

GEORGE R. ARIYOSHI  
GOVERNOR



STATE OF HAWAII  
PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
1164 Bishop Street, Suite 911  
Honolulu, Hawaii 96813

May 15, 1985

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JENSEN S. L. HEE  
DIRECTOR OF BUDGET & FINANCE

ALBERT Q. Y. TOM  
CHAIRMAN

CLYDE S. DUPONT  
COMMISSIONER

SUNAO KIDO  
COMMISSIONER

Ms. Margaret Wood  
Legal Counsel  
Federal Communications Commission  
Room 6206  
1919 M. Street, N.W.  
Washington, D.C. 20554

FILED/ACCEPTED

APR 26 2010

Federal Communications Commission  
Office of the Secretary

Dear Ms. Wood

Re:CATV Pole Attachment Certification

This is in reference to our letter of January 24, 1985 concerning certification under the Cable Communications Policy Act of 1984 for cable TV pole attachments.

We note that in an FCC news media publication dated February 11, 1985 that Hawaii is not listed as one of the states meeting certification under Section 1.1414 (b) of the FCC's Rules on cable television pole attachments. We have not received written communication from the FCC that our letter of January 24, 1985 does not qualify for the certification as prescribed.

As indicated in our January 24, 1985 letter, there are two Hawaii State agencies involved in cable television matters. The Hawaii PUC has regulatory jurisdiction over the pole attachments made to telephone and electric utility property. The Department of Commerce and Consumer Affairs, Cable TV Division, a completely separate agency has regulatory responsibilities over the operations of cable television companies as to the rates, charges and practices affected cable television subscribers. Accordingly, the Hawaii PUC was unable to certify that "we have the authority to consider and do consider the interests of cable TV subscribers" in determining the reasonableness of pole attachment charges, inasmuch as the Department of Commerce and Consumer Affairs determines the ultimate charges made to cable television subscribers.

The Hawaii PUC under the statute regulates all activities of telephone and electric utilities including pole attachments. Cable television companies who request such pole attachments

are considered customers of the regulated utility and have the opportunity to challenge the reasonableness of the charges established for pole attachments. Whether the subsequent charges by the cable television company to its subscribers are reasonable is to be determined by another agency.

If the statutory charge of having the "authority to consider and do consider the interests of cable television subscribers" is taken liberally to infer that the PUC by virtue of its deliberations on the reasonableness of pole attachment charges have considered the interest of cable television subscribers, then in all cases the PUC has exercised this responsibility.

In re Docket No. 4794 (a copy of which was furnished with our letter of January 24, 1985), Decision and Order No. 7926, the parties to the proceeding, which included telephone and electric utilities as well as the Hawaii Cable Television Association, reached a stipulated agreement on pole attachment charges. Based on the stipulated agreement the agreed charges shall remain in effect through October 1986. We believe that the stipulated agreement and decision and order of the commission has the force and effect of rules and regulations. Accordingly, we believe that the Hawaii PUC is eligible for certification under Section 1.1414 (b) of the FCC Rules.

Your comments and acknowledgement to the foregoing will be appreciated. If there are any questions, do not hesitate to contact this office.

Very Truly Yours,



Melvin S. Ishihara  
Administrative Director

Enclosure: Decision and Order No. 7926, Docket No. 4794

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of -----)	
)	
PUBLIC UTILITIES COMMISSION )	
OF THE STATE OF HAWAII )	Docket No. 4794
)	
Order of Investigation )	Decision and Order No. 7926
Regarding CATV Pole Attachment)	
Charges )	
_____ )	

DECISION AND ORDER

Whereas, the Commission, pursuant to Order No. 7446, filed February 16, 1983 in the above entitled docket, initiated a generic investigation to develop a uniform formula for a pole attachment fee or charge to be made applicable to all public utilities;

Whereas, the parties to the docket, after lengthy discovery and negotiations have entered into a Stipulation and Settlement of the issues in this proceeding;

Now therefore, pursuant to said Stipulation and Settlement, filed April 30, 1984, the Commission makes the following ultimate findings and conclusions of law:

1. The yearly "per pole charge" of \$5.40 approved in prior proceedings, including Decision and Order Nos. 2667 and 3159, dated September 23, 1970 and November 13, 1973 respectively, should be increased in steps over a specific time period;
2. The current pole attachment charge shall be raised in accordance with the following schedule:

<u>Date</u>	<u>Effective Charge</u> (per pole)
June 1, 1984	\$5.60
June 1, 1985	\$5.80

The effectiveness of the \$5.80 charge shall be continued to October 1, 1986, at which time the parties shall review the appropriateness of the charge in light of then current conditions, provided that the \$5.80 charge shall thereafter remain in effect until changed by further Commission order.

3. The foregoing schedule of charges is in the public interest and provides the parties with a measure of certainty in their financial planning.

4. The foregoing schedule of charges are necessary, just and reasonable and in the public interest for both the cable television companies and the public utilities.

5. The terms and conditions of the Stipulation and Settlement, filed April 30, 1984, in the above entitled proceeding, attached hereto and made a part hereof, are just and reasonable.

IT IS THEREFORE ORDERED THAT:

1. Hawaiian Telephone Company, Kauai Electric Division of Citizens Utilities Company, Hawaiian Electric Company, Inc. Maui Electric Company, Ltd. and Hawaii Electric Company, Inc. shall increase their respective pole attachment charge for cable television companies as shown in the schedule noted in the Stipulation and Settlement, attached hereto and made a part hereof.

2. No increase in excess of the \$5.80 per pole attachment charge shall be made without the prior approval of the Commission.

3. The public utilities above-mentioned shall file their respective pole attachment agreements with the Commission to reflect the increase approved herein.

4. The companion Docket Nos. 4510 and 4856, are hereby dismissed as being moot.

5. The investigation in this docket being complete, this docket is closed.

DONE at Honolulu, Hawaii, this 10th day of May, 1984.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By Albert Tom  
Albert Tom, Chairman

By Sunao Kido  
Sunao Kido, Commissioner

By (EXCUSED)  
Clyde S. DuPont, Commissioner

APPROVED AS TO FORM:

Harry S. Y. Kim  
HARRY S. Y. KIM  
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 7926 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, properly addressed to each such party.

DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS  
CABLE TELEVISION DIVISION  
1010 Richards Street, 2nd Floor  
Honolulu, HI 96813

HAWAIIAN ELECTRIC COMPANY, INC.  
P. O. Box 2750  
Honolulu, HI 96840

HAWAII ELECTRIC LIGHT CO., INC.  
P. O. Box 1027  
Hilo, HI 96720

MAUI ELECTRIC COMPANY, LTD.  
210 Kamehameha Avenue  
Kahului, HI 96732

KAUAI ELECTRIC DIVISION OF  
CITIZENS UTILITIES COMPANY  
P. O. Box 278  
Eleele, HI 96705

CITIZENS UTILITIES COMPANY  
High Ridge Park  
Stamford, CT 06905  
ATTN: Mr. Ishier Jacobson

HAWAIIAN TELEPHONE COMPANY  
P. O. Box 2200  
Honolulu, HI 96841

By *[Signature]*

JAMES H. CASE, ESQ. and  
ALAN M. OSHIMA, ESQ.  
CARLSMITH, CARLSMITH, WICHMAN & CASE  
P. O. Box 656  
Honolulu, HI 96809

WAYNE MINAMI, ESQ. (Counsel for: )  
Suite 601, HK Building ( HAWAII CABLE TELEVISION ASSN.)  
820 Mililani Street  
Honolulu, HI 96813

HAROLD FARROW, ESQ. (Co-counsel for: )  
P. O. Box 2290 ( HAWAII CABLE TELEVISION ASSN.)  
Union Bank Building  
Oakland, CA 94621

*[Signature]*  
for Bertha F. Kurosawa  
Chief Clerk

DATED: MAY 10, 1984